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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,392	01/30/2002	Marietta V. Sperry	01256-T9355.NP	4635
20551 7590 12/16/2008 THORPE NORTH & WESTERN, LLP. P.O. Box 1219 SANDY, UT 84091-1219				
EXAMINER				
HOWELL, DANIEL W				
ART UNIT		PAPER NUMBER		
3726				
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12/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/066,392

Applicant(s)

SPERRY, MARIETTA V.

Examiner

Daniel W. Howell

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 13-16, 18, 19, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 13-16, 18-19, 22-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. It is well known that polypropylene may be see-through. Note US 4,784,508 at column 3, lines 6+; US 5,772,349 at column 2, lines 48-50; and US 5,722,694 at column 3, lines 33-40.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al (5947279). Organizer 10 has a closed position shown in figure 1 and an open position in figure 5. Figure 5 shows a plurality of dividers 22 that form pockets for reception of items including paper. As stated at column 3, lines 65, through column 4, line 5, the accordion file may be translucent and made of polypropylene, and lines 40+ of column 5 state that the device may be transparent and colored. Note front wall 14e and rear wall 14c. Column 4, lines 1-5, state that this cover is made of polypropylene, and it is well known that polypropylene may be see-through. While lines 40-49 of column 5 discuss modifications where neither the accordion nor the cover is see-through, it is clear from the paragraph bridging columns 3 and 4 that Lee et al did envision an embodiment constructed of see through plastic/polypropylene "to allow viewing of, or ascertaining the presence of, contents." While sizes are discussed at column 5, lines 23+, Lee et al does not explicitly disclose that the organizer will hold 12"x12" pages. It is considered to have been obvious to have provided any size of pockets needed in order to accommodate documents of importance to the user, such that the documents are retained without being damaged.

4. Claims 6-9, 11, 13-14, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al '279 in view of Struhl (5275438). Lee et al shows a second pocket 26 for holding a floppy disc, but it does not have a cover. Regarding claim 13, note that pocket 26 will be seen when the organizer is in the closed position, as the organizer is transparent. Struhl shows a folder 2 for storing papers and a pocket 18 for storing a floppy disc. The pocket 18 has a flap/pocket cover 42 which may be closed to secure the disc against loss. The entire device of Struhl is transparent. It is considered to have been obvious to have provided the pocket of Lee et al with a pocket cover/flap as shown by Struhl in order to prevent loss of the stored item. Regarding claims 8 and 11, it is considered to have been obvious to have provided Lee et al with a plurality of pockets 26 of the same or different sizes, as this is merely duplication of existing structure, in order to store additional items and/or items of a different size.

5. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al '279 in view of Lee et al (6290058). Organizer 10 of Lee et al '279 has a closed position shown in figure 1 and an open position in figure 5. Figure 5 shows a plurality of dividers 22 that form pockets for reception of items including paper. As stated at lines 40+ of column 5, the device may be transparent. Note front wall 14e and rear wall 14c. While sizes are discussed at column 5, lines 23+, Lee et al does not explicitly disclose that the organizer will hold 12"x12" pages. It is considered to have been obvious to have provided any size of pockets needed in order to accommodate documents of importance to the user, such that the documents are retained without being damaged. Lee et al shows a second pocket 26 on front wall 14e for holding a floppy disc. Lee et al '279 does not show a pocket positioned on the rear wall inside for holding data storage media. Lee et al '058 discusses at column 1, lines 48 through column 2, line 20,

placing a data storage pocket 100 in various locations on covers of various paper storage devices, including binders, portfolios, envelopes, file holders and the like in order to prevent loss of the computer media. As stated at column 3, lines 27+, “As the skilled artisan will readily appreciate, the mounting location of the media storage member is not critical; the front wall, the back wall, or both walls, may be used for the situs of the media storage member.” Lines 48-51 of column 1 state that the member may be mounted inside or outside the storage device. In view of this teaching of Lee et al ‘058, it is considered to have been obvious to have provided Lee et al ‘279 with a third pocket on the rear wall inside the pocket in order to prevent loss of the storage media. It would be obvious to make the size of the pocket of whatever size is deemed needed by the user.

6. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al ‘279 in view of Struhl as applied to claim 11 above, and further in view of Lee et al ‘058. Lee et al ‘279 does not show a pocket positioned on the rear wall for holding data storage media. Lee et al ‘058 discusses at column 1, lines 48 through column 2, line 20, placing a data storage pocket 100 in various locations on covers of various paper storage devices, including binders, portfolios, envelopes, file holders and the like in order to prevent loss of the computer media. As stated at column 3, lines 27+, “As the skilled artisan will readily appreciate, the mounting location of the media storage member is not critical; the front wall, the back wall, or both walls, may be used for the situs of the media storage member.” In view of this teaching of Lee et al ‘058, it is considered to have been obvious to have provided Lee et al ‘279 with a third pocket on the rear wall inside the pocket in order to prevent loss of the storage media, and on the rear wall on the outside for ease of access.

7. Applicant's arguments filed 10-6-08 have been fully considered but they are not persuasive. Applicants state that they can find nothing in Lee et al that indicates that the front and rear walls are translucent or transparent. Applicant states that only the accordion file is translucent, and that the "translucent" disclosure of the accordion does not carry over to the cover 14. Applicant also mentions column 5, lines 40+, which sets forth materials for both the accordion and cover that are distinctly not transparent. As noted above, the cover 14 is disclosed as being made of polypropylene, which definitely may be see-through. The paragraph bridging paragraphs 3 and 4 discloses the advantage "to allow viewing of, or ascertaining the presence of, contents." If the polypropylene of the cover 14 were not to be of a see through material, then the device taken as a whole would not have that advantage "to allow viewing of, or ascertaining the presence of, contents." Reading this paragraph as Applicant has described it would mean that a viewer could "view" a document in the accordion by looking through the accordion side itself. This would mean that the viewer would be looking at the edge of a document, rather than the face of the document, which really isn't a very good view. It is also clear that if the cover 14 is not see through, then the only way to "ascertain the presence of" a document within the file system would be to open the cover itself and then look in. It is apparent that the polypropylene cover 14 is transparent in order to permit one to "ascertain the presence of" the contents of the file system. Regarding column 5, lines 40+, this description is clearly discussed as being **modifications**. One of the modifications has both the cover and the accordion being made of non-see through material, such that it is clear that these lines are not discussing the embodiment bridging columns 3 and 4.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning the content of this communication from the examiner should be directed to Daniel Howell, whose telephone number is 571-272-4478. The examiner's office hours are typically about 10 am until 6:30 pm, Monday through Friday. The examiner's supervisor, David Bryant, may be reached at 571-272-4526.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office actions directly into the Group at FAX number to 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify Examiner Daniel Howell of Art Unit 3726 at the top of your cover sheet.

/Daniel W. Howell/
Primary Examiner, Art Unit 3726